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## Remarks

The Examiner has not entered item 5 of the non-patent literature in the Information Disclosure Statement filed on February 24<sup>th</sup>, 2006 because no document had been submitted for the listed web page. In response thereto, the Applicant submits an Information Disclosure Statement under 37 CFR § 1.97(i).

The Examiner has objected to the drawings, in particular Fig. 2, since sample 4 is poorly visible. In responding thereto, Fig. 2 has been replaced with a clearly labeled sample 4. Review and acceptance is requested.

The Examiner has also objected the drawings under 37 CFR 1.84(p)(5) as not including reference sign 45 of the description. The Examiner has also objected to Fig. 4, since reference character 47 has been used twice to designate both the spindle as well as the jaws. In response to these objections, the Applicant has amended Fig. 4 to properly label reference symbol 45 and to remove the contradiction of reference number 47. Review and acceptance is requested.

The Examiner has objected to claims 6, 10 and 11 for lack of clarity. The Examiner has also objected to claim 6 as being included twice and has relabeled second claim 6 as claim 7 and changed the numbers of the subsequent claims so that claims 1 through 16 are currently pending in this application.

Claim 8 stands rejected under 35 USC 112 second paragraph as being indefinite. Claims 1 through 3, 5 through 11, 13 and 16 have been

rejected under 35 USC 102(a) as being anticipated by Ellis. The Examiner has noted that the Applicant cannot rely upon the foreign priority, since a translation of the papers have not been made of record in this case. The Examiner has also rejected claims 1 through 3, 9 and 15 under 35 USC 102(b) as being anticipated by Chu. Claims 1, 2, 6, 7 and 9 stand rejected under 35 USC 102(b) as being anticipated by Steinmeyer '909. Claims 1 through 4, 6 through 9 and 13 and 16 stand rejected under 35 USC 102(b) as being anticipated by Kurbatov '733. The Examiner has furthermore rejected claims 4, 12, 14 and 15 under 35 USC 103(a) as being anticipated by Ellis and claims 10 through 12, 14 and 15 under 35 USC 103(a) as being unpatentable over Kurbatov.

Responding to these rejections and objections, the Applicant has cancelled pending claims 1 through 16 and drafted new claims 17 through 25, directed to a method for operating an X-ray or neutron optical system. In the new method claims, the beam stop is adjusted in the z-direction prior to each measurement of a sample in order to correct for time changes in the optics of the beam and of parasitic interfering radiation. These limitations are disclosed in the specification on page 3 last four lines thereof, on page 4, the last five lines of the first paragraph, on page 7 in the first paragraph following the description of the preferred embodiment title, lines 8 and 9 thereof, as well as in the first full paragraph on page 8, lines 5 through 9 thereof. None of the prior art of record suggest such a periodic control of the beam optics in order to protect the detector on a measurement by measurement basis. The claimed features allow for optimized measurement of a sample without interference due to either scattered radiation or portions of the primary beam which become incident on the detector due to time changes in the beam optics during the course

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of a series of measurements. The invention therefore recites elements not disclosed in prior art which have associated advantages and is therefore sufficiently distinguished from that prior art to satisfy the conditions for patenting in the United States. Review, acceptance and passage to issuance is therefore requested.

No new matter has been added in this amendment.

Respectfully submitted,

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Date

Enclosures:

Replacement Figures 2 and 4

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**FIGURE AMENDMENTS:**

Please replace Figures 2 and 4 with the enclosed replacement sheets thereof.